

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THE HANOVER INSURANCE COMPANY,

Plaintiff,

V.

CRISTINA MEHLING, et al.,

Defendants.

C16-1671 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Plaintiff's motion for judgment on the pleadings, docket no. 15, is DENIED in part as to the duty to defend and DEFERRED in part as to any duty of indemnification. With regard to The Hanover Insurance Company's duty to defend Christina Mehling and the Mehling Law Firm PLLC (collectively, "Mehling Defendants") in the action brought in King County Superior Court by Virginia L. Burdette in her capacity as the Chapter 7 Trustee for the Andrew Kim Bankruptcy Estate, the Court is persuaded that issues of material fact preclude judgment as a matter of law on the pleadings. See Fed. R. Civ. P. 12(c); see also Gen'l Conference Corp. of Seventh-Day Adventists v. Seventh-Day Adventist Congregational Church, 887 F.2d 228, 230 (9th Cir. 1989). The allegations and claims asserted by Burdette, see Ex. A to Compl. (docket no. 1-2), are broader than the matters about which Mehling might have had notice in 2013, before the "inception" date of the policy at issue, see Exs. C, D, E, G, & H to Compl. (docket nos. 1-4, 1-5, 1-6, 1-8, & 1-9), and thus, whether the policy "conceivably covers" the assertions in the underlying complaint, as liberally construed, is at least a question of fact. See Am. Best Food, Inc. v. Alea London, Ltd., 168 Wn.2d 398, 404-05, 229 P.3d 693 (2010); see also Expedia, Inc. v. Steadfast Ins. Co., 180 Wn.2d 793, 802, 329 P.3d 59 (2014).

1 (2) The deferred portion of the Mehling Defendants' motion to stay, docket
2 no. 18, is GRANTED, and this case is hereby STAYED pending resolution of the
3 underlying litigation between Burdette and the Mehling Defendants. The parties shall
provide a Joint Status Report within fourteen (14) days after the underlying litigation in
King County Superior Court is completed or by January 15, 2018, whichever occurs
earlier.

4 (3) The oral argument scheduled for Friday, May 12, 2017, at 10:00 a.m., is
5 STRICKEN.

6 (4) The Clerk is directed to send a copy of this Minute Order to all counsel of
record.

7 Dated this 8th day of May, 2017.

8 William M. McCool
9 Clerk

10 s/Karen Dews
11 Deputy Clerk